

A-357-802, A-583-803
Sunset Reviews
Public Document
AD/CVD 5

DATE: October 31, 2005

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Expedited Sunset Reviews of the Antidumping Duty Orders on Light-
Walled Welded Rectangular Carbon Steel Tubing from Argentina and
Taiwan

Summary

We have analyzed the substantive responses of the domestic interested parties in the second sunset reviews of the antidumping duty orders covering light-walled welded rectangular carbon steel tubing (light-walled tubing) from Argentina and Taiwan.¹ We recommend that you approve the positions we developed in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

History of the Orders

The Department of Commerce (Department) published its final affirmative determinations of sales at less than fair value in the Federal Register with respect to imports of light-walled tubing from Argentina and Taiwan at the following rates:

¹ We received no responses from respondent interested parties.

Argentina

All Manufacturers/Producers/Exporters	56.26
---------------------------------------	-------

Taiwan

Ornatube Enterprise	5.51
Vulcan Industrial Corp.	40.97
Yieh Hsing Industries, Ltd.	40.97
All Other Manufacturers/Producers/Exporters	29.15

See Final Determination of Sales at Less Than Fair Value; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan, 54 FR 5532 (February 3, 1989); Final Determination of Sales at Less Than Fair Value: Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina, 54 FR 13913 (April 6, 1989). The Department later published antidumping duty orders on light-walled tubing from Argentina and Taiwan in the Federal Register. See Antidumping Duty Order; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan, 54 FR 12467 (March 27, 1989); Antidumping Duty Order; Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina, 54 FR 22794 (May 26, 1989). Since the issuance of the orders, the Department has not conducted an administrative review of sales of light-walled tubing from Argentina. The Department has conducted two administrative reviews of sales of light-walled tubing from Taiwan prior to the first sunset review. See Final Results of Antidumping Duty Administrative Review; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan, 56 FR 26382 (June 7, 1991); Final Results of Antidumping Duty Administrative Review; Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina, 57 FR 24464 (June 9, 1992). There have been no changed-circumstance or duty-absorption reviews of the two orders. (Duty-absorption inquiries may not be conducted on pre-URAA² orders. See *FAG Italia S.p.A. v. United States*, 291 F.3d 806 (Fed. Cir. 2002).) In addition, there have been no scope rulings on the subject merchandise covered by the orders. The orders remain in effect for all manufacturers, producers, and exporters of light-walled tubing from Argentina and Taiwan.

The Department conducted the first sunset reviews of the orders on light-walled tubing from Argentina and Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as it found in the original investigations. See Final Results of Expedited Sunset Review: Light-Walled Welded Rectangular Carbon Steel Tubing from Argentina, 64 FR 67870 (December 3, 1999); Final Results of Expedited Sunset Review: Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan, 64 FR 67871 (December 3, 1999); Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan; Corrected Final Results of Expedited Sunset Review, 65 FR 11763 (March 6, 2000). The International Trade Commission (ITC) determined, pursuant to section 751(c) of the Act, that revocation of these orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand,

² URAA refers to the Uruguay Round Agreements Act.

Turkey, and Venezuela, 65 FR 48733 (August 9, 2000), and USITC Pub. 3316, Inv. No. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409, 410, 532-534, 536, and 537 (Review) (July 2000). Thus, the Department published the notice of continuation of these antidumping duty orders pursuant to section 777(i)(1) of the Act. See Continuation of Antidumping Duty Orders: Light-Walled Rectangular Welded Carbon Steel Pipe and Tube from Argentina and Taiwan; Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, Korea, Mexico, and Taiwan; Welded Carbon Steel Pipe and Tube from India, Thailand, and Turkey; and Small Diameter Standard and Rectangular Steel Pipe and Tube from Taiwan, 65 FR 50955 (August 22, 2000).

On July 1, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on light-walled tubing from Argentina and Taiwan pursuant to sections 751(c) and 777(i)(1) of the Act. See Initiation of Five-Year ("Sunset") Reviews, 70 FR 38101 (July 1, 2005). The Department received a notice of intent to participate in both reviews from Allied Tube and Conduit, Hannibal Industries, Leavitt Tube Company, Northwest Pipe Company, Searing Industries, and Western Tube and Conduit Trinity Industries, Inc. (collectively the domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as manufacturers, producers, or wholesalers of the subject merchandise in the United States. We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department has conducted expedited (120-day) sunset reviews of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the periods before and the periods after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide the ITC with the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested-Party Comments

On July 29, 2005, the domestic interested parties submitted a substantive response in each sunset review. We later requested that both responses be re-filed in order to correct a clerical error and the domestic interested parties re-filed the responses on October 11, 2005. In both

responses, they assert that revocation of the antidumping duty orders would lead to a continuation of dumping by manufacturers, producers, and exporters of the subject merchandise from Argentina and Taiwan.

Argentina: The domestic interested parties state that, after the imposition of the antidumping duty order on light-walled tubing from Argentina, the level of imports of the subject merchandise fell dramatically from annual levels ranging from 1,846 short tons to 24,260 short tons from 1986 through 1988 to zero short tons from 1989 through 1999. See Substantive Response for light-wall tubing from Argentina at 3-4. They observe that, in the first sunset review, the Department found a margin for all producers and exporters identical to the one it found in the original investigation. *Id.* at 4. They add that there were no imports of subject merchandise in 2001, 2003, and 2004 and that the amounts imported in 2000 and 2002 were extremely insignificant. *Id.* The domestic interested parties conclude that, since the imposition of the order, the imports of light-walled tubing from Argentina have never accounted for more than a small fraction of a percent of the import market share and that this decrease in imports indicates a strong likelihood of a recurrence of dumping should the antidumping order be revoked. *Id.* at 5.

Taiwan: The domestic interested parties state that, after the imposition of the antidumping duty order on light-walled tubing from Taiwan, the level of imports of the subject merchandise fell dramatically from annual levels ranging from 5,375 short tons to 14,188 short tons from 1989 through 1991 to 2,620 short tons in 1992 and zero short tons in 1993, 1995, and 1997. See Substantive Response for light-wall tubing from Taiwan at 3-4. They observe that, in the first sunset review, the Department found margins for all producers and exporters to be identical to those found in the original investigation. *Id.* at 4. They state that there were no imports of subject merchandise in 2002 and 2003 and that the amounts imported in 2000, 2001, and 2004 were insignificant. *Id.* The domestic interested parties conclude that, since the imposition of the order, the imports of light-walled tubing from Taiwan have never accounted for more than one tenth of one percent of the import market share and that this decrease in imports indicates a strong likelihood of a recurrence of dumping should the antidumping order be revoked. *Id.* at 5.

Department's Position

Consistent with the guidance provided in the legislative history accompanying the URAA, specifically the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood of a recurrence or continuation of dumping will be made on an order-wide basis. In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after the issuance of the order; or (c) dumping was eliminated after the issuance of the

order and import volumes for the subject merchandise declined significantly.

In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

Below we list our findings for each order subject to the reviews:

Argentina: A review of the substantive response for light-walled tubings from Argentina shows that 1,846, 13,080, and 24,260 short tons of subject merchandise were imported from that country in 1986, 1987, and 1988, respectively. See the Substantive Response for light-walled tubing from Argentina at 4. Import statistics from the World Trade Atlas, published by Global Trade Information Services, Inc., show that annual imports of the subject merchandise from Argentina to the United States were at zero levels for the years 1990 through 2004 except for 2000 and 2002, during which small amounts (*i.e.*, less than 13,000 kilograms) were imported. See the World Trade Atlas statistics, the source of which is the Bureau of Census of the U.S. Department of Commerce, in attachment 1 of this memorandum. Given that, at times, dumping continues at above *de minimis* levels and the import amounts are well below pre-order levels, the Department determines that dumping is likely to continue or recur if it revokes the order.

Taiwan: In the substantive response for light-walled tubings from Taiwan, the domestic interested parties observed that imports of subject merchandise from Taiwan amounted to 5,375 short tons (or 4,876,117 kilograms) in 1989, the year that the antidumping duty order was issued. See the Substantive Response for light-walled tubing from Taiwan at 4. Although information from U.S. Customs and Border Protection indicates that there were import volumes of 626,014 pounds (or 283,960 kilograms) in 1988 (see the Memorandum to the File, dated October 31, 2005), the World Trade Atlas statistics show that annual import levels of the subject merchandise from Taiwan to the United States decreased dramatically from 1990 through 2004. See attachment 1. They confirm that, as stated by the domestic interested parties, import levels were at zero for the years 1993, 1995, 1997, 2002, and 2003 and were low (*i.e.*, less than 53,500 kilograms) during 2000, 2001, and 2004. Given that dumping continues at above *de minimis* levels and import amounts are well below the amount imported prior to the imposition of the order in 1989, the Department determines that dumping is likely to continue or recur if it revokes the order.

2. Magnitude of the Margins Likely to Prevail

Interested-Party Comments

Argentina: In the substantive response for light-wall tubing from Argentina, the domestic interested parties state that the Department should provide the margin calculated in the original investigation to the ITC. See Substantive Response for light-walled tubing from Argentina at 6. Accordingly, they recommend that the Department report the following dumping margin to the ITC:

Argentina

All Manufacturers/Producers/Exporters

56.26

Taiwan: In the substantive response for light-wall tubing from Taiwan, the domestic interested parties state that the Department should provide the margins calculated in the original investigation to the ITC. See Substantive Response for light-walled tubing from Taiwan at 6. Accordingly, they recommend that the Department report the following dumping margins to the ITC:

Taiwan

Ornatube Enterprise	5.51
Vulcan Industrial Corp.	40.97
Yieh Hsing Industries, Ltd.	40.97
All Other Manufacturers/Producers/Exporters	29.15

Department's Position

Normally the Department will provide the company-specific margins from the original investigation to the ITC. For companies not investigated specifically or for companies that did not begin shipping until after the order was issued, the Department will normally provide a margin based on the "all others" rate from the investigation. The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an antidumping duty order or suspension agreement in place. Under certain circumstances, however, the Department may select a margin calculated more recently to report to the ITC.

Since the first sunset review, the Department has conducted no administrative reviews of sales of light-walled tubing from Argentina or Taiwan. Thus, the Department must determine the appropriate rates to report to the ITC regarding shipments of this merchandise. The Department finds that it is appropriate to provide the ITC with the rates from the investigation because these rates are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC these same margins as listed in the "Final Results of Reviews" section below.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on light-walled tubing from Argentina and Taiwan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
-----------------------------------	-----------------------------------

Argentina

All Manufacturers/Producers/Exporters	56.26
---------------------------------------	-------

Taiwan

Ornatube Enterprise	5.51
Vulcan Industrial Corp.	40.97
Yieh Hsing Industries, Ltd.	40.97
All Other Manufacturers/Producers/Exporters	29.15

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the Federal Register.

AGREE _____

DISAGREE _____

 Joseph A. Spetrini
 Acting Assistant Secretary
 for Import Administration

 (Date)